

REMARKS

A. Introduction

Claims 1-9 were presented for examination.

Claims 1-9 were rejected.

Claims 1, 2, 8, and 9 have been amended.

Claim 10 has been added.

B. Claim Rejections Under 35 U.S.C. § 103

Examiner rejected Claims 1-7 under 35 U.S.C. § 103(a) as being unpatentable over Zenner and in view of Cody et al. Further, Examiner rejected Claims 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Zenner in view of Friesen.

The examiner bears the initial burden of establishing a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be some reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. Manual of Patent Examining Procedure (M.P.E.P. 2142); *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991). Examiner has failed to establish a *prima facie* case of obviousness.

1. Non-Analogous Art

To rely on references under 35 U.S.C. §103, the references must be analogous

prior art. M.P.E.P. 2141.01(a). In order to rely on a reference as a basis for a rejection of an applicant's invention, the reference must be either in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. *In re Oetiker*, 977 F.2d 1443 (Fed. Cir. 1992). A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem. *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858 (Fed. Cir. 1993).

Respectfully, the prior art reference Zenner cited by examiner is non-analogous art and was improperly relied on to reject Claims 1 through 9 of the present invention. This reference is clearly outside the field of applicant's endeavor. The present invention is specifically drawn to a mower deck, NOT a mower deck cover as is referenced in U.S. Patent No. 4,930,298 issued to Zenner. Furthermore, the prior art reference is not reasonably pertinent to the particular problem with which the inventors were concerned. The inventors of the present invention were concerned with inventing a mower deck with internal torsional stiffness. Zenner relates to developing a cover for a mower deck with non-problematic fasteners i.e. magnets.

2. Suggestion to Combine References

In addition to being nonanalogous art, Zenner does not suggest combination or modification to be used to provide structural integrity to a mower deck. Nor is such a suggestion common knowledge available to one of ordinary skill in the art. It follows, therefore, that since no suggestion exists to apply the references to the present invention, that there would not be any, or extremely low, reasonable expectation of success to

combine the references. To further clarify the distinction of the present invention from the cited references, Applicant has provided amendments herein.

Applicant has considered all points made by the Examiner in the Office Action dated June 14, 2005 and has incorporated Examiner's suggestions to ensure compliance with the applicable rules. In view of the above, it is submitted that Claims 1-10 are in a condition for allowance. Reconsideration and withdrawal of the objections and rejections is respectfully requested.

If impediments to allowance of Claims 1-10 remain and a telephone conference between the undersigned and the examiner would help remove such impediments in the opinion of the examiner, a telephone conference is respectfully requested.

Respectfully submitted,

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Documents Enclosed:

1. Response to Office Action of June 14, 2005.

Miranda S. Barlow
Printed Name of Person Mailing Paper or Fee

Miranda S. Barlow
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